

**UNITED STATES DISTRICT COURT
EASTERN DISTRICT OF PENNSYLVANIA**

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|---------------------------|---|-----------------------|
| RONELL NICHOLS, | : | |
| Plaintiff, | : | |
| | : | |
| v. | : | No. 23-cv-3157 |
| | : | |
| E. JUDDUE, et al., | : | |
| Defendants. | : | |

ORDER

AND NOW, this 27th day of October, 2023, upon consideration of Plaintiff Ronell Nichols's Motion to Proceed *In Forma Pauperis* (ECF No. 1), Prisoner Trust Fund Account Statement (ECF No. 3), and *pro se* Complaint (ECF No. 2), it is **ORDERED** that:

1. Leave to proceed *in forma pauperis* is **GRANTED** pursuant to 28 U.S.C. § 1915.
2. Ronell Nichols, #23002971, shall pay the full filing fee of \$350 in installments, pursuant to 28 U.S.C. § 1915(b), regardless of the outcome of this case. The Court directs the Warden of George W. Hill Correctional Facility or other appropriate official to assess an initial filing fee of 20% of the greater of (a) the average monthly deposits to Nichols's inmate account; or (b) the average monthly balance in Nichols's inmate account for the six-month period immediately preceding the filing of this case. The Warden or other appropriate official shall calculate, collect, and forward the initial payment assessed pursuant to this Order to the Court with a reference to the docket number for this case. In each succeeding month when the amount in Nichols's inmate trust fund account exceeds \$10.00, the Warden or other appropriate official shall forward payments to the Clerk of Court equaling 20% of the preceding month's income credited to Nichols's inmate account until the fees are paid. Each payment shall refer to the docket number for this case.

3. The Clerk of Court is **DIRECTED** to send a copy of this Order to the Warden of George W. Hill Correctional Facility.

4. The Complaint is **DEEMED** filed.

5. For the reasons stated in the Court's Memorandum, Nichols's official capacity claims, his failure to protect claims against Defendants McFadden, Gowah, and Barclay, and his claims against Warden Laura Williams are **DISMISSED WITHOUT PREJUDICE** for failure to state a claim pursuant to 28 U.S.C. § 1915(e)(2)(B)(ii).

6. The Clerk of Court is **DIRECTED** to send Nichols a blank copy of the Court's standard form complaint for prisoners to use to file a complaint bearing the above civil action number.¹

7. Nichols is given thirty (30) days to file an amended complaint in the event he can allege additional facts to cure the defects in the claims the Court has dismissed. Any amended complaint shall identify all defendants in the caption of the amended complaint in addition to identifying them in the body of the amended complaint, shall state the basis for Nichols's claims against each defendant, and shall bear the title "Amended Complaint" and the case number 23-3157. **If Nichols files an amended complaint, his amended complaint must be a complete document that includes all of the bases for Nichols's claims, including claims that the Court has not yet dismissed if he seeks to proceed on those claims. Claims that are not included in the amended complaint will not be considered part of this case.** When drafting his amended complaint, Nichols should be mindful of the Court's reasons for dismissing his claims

¹ This form is available on the Court's website at <http://www.paed.uscourts.gov/documents/forms/frmc1983f.pdf>.

as explained in the Court's Memorandum. Upon the filing of an amended complaint, the Clerk shall not make service until so **ORDERED** by the Court.

8. If Nichols does not file an amended complaint the Court will direct service of his initial Complaint on Defendants Juddue, Dwomoh, Davies, Young, and Jackson only so that Nichols may proceed on his remaining deliberate indifference claim. Nichols may also notify the Court that he seeks to proceed on these claims rather than file an amended complaint. If he files such a notice, Nichols is reminded to include the case number for this case, 23-3157.

9. The time to serve process under Federal Rule of Civil Procedure 4(m) is **EXTENDED** to the date the Court issues summonses in this case if summonses are issued.

BY THE COURT:

/s/ Joseph F. Leeson, Jr.

JOSEPH F. LEESON, JR.
United States District Judge